

05/27/2025

By: C. Raybould Deputy

JAMIE K. SERB, ESQ. (SBN 289601)

jamie@crosnerlegal.com

BRANDON BROUILLETTE, ESQ. (SBN 273156)

bbrouillette@crosnerlegal.com

ZACHARY M. CROSNER, ESQ. (SBN 272295)

zach@crosnerlegal.com

CROSNER LEGAL, PC

9440 Santa Monica Blvd. Suite 301

Beverly Hills, CA 90210

Tel: (866) 276-7637

Fax: (310) 510-6429

Attorneys for Plaintiff CRUZ SOTO

on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

CRUZ SOTO, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

DELTA PRINT GROUP, LLC, a California
Limited Liability Company; DELTA WEB
PRINTING, INC., a California Corporation;
BALANCE STAFFING FRANCHISE LLC,
a California Limited Liability Company;
BALANCE MANAGED SERVICES LLC,
a California Limited Liability Company; and
DOES 1-100, inclusive,

Defendants.

Case No.: **25CV012539**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, CRUZ SOTO, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants DELTA
3 PRINT GROUP, LLC, a California Limited Liability Company; DELTA WEB PRINTING, INC.,
4 a California Corporation; BALANCE STAFFING FRANCHISE LLC, a California Limited
5 Liability Company; BALANCE MANAGED SERVICES LLC, a California Limited Liability
6 Company; and DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”).
7 PLAINTIFF is informed and believes and thereon alleges as follows:

8 **INTRODUCTION**

9 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
10 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
11 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
12 for DEFENDANTS’ violations of the California Labor Code as alleged below.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
15 California statutes, including but not limited to the PAGA, and decisional law and regulations.

16 3. Venue is proper in this judicial district and the County of Sacramento pursuant to
17 California Code of Civil Procedure section 395.5 because DEFENDANTS assigned PLAINTIFF to
18 work in this judicial district, one or more of the DEFENDANTS maintain its principal place of
19 business within this judicial district, DEFENDANTS transact business within this judicial district,
20 and conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
21 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
22 proper in any county where the defendants committed Labor Code violations against some of its
23 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
24 because the cause, or some part of the cause, arose in the County of Sacramento.

25 **THE PARTIES**

26 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
27 California and a citizen of the State of California.

28 5. PLAINTIFF worked for DEFENDANTS, in Sacramento, California, as a non-

1 exempt employee with a job title of warehouse worker or a similar job title/position, from
2 approximately September 2024 through approximately November 2024.

3 6. Defendant, DELTA PRINT GROUP, LLC, is a California Limited Liability
4 Company that, at all relevant times, was authorized to do business within the State of California and
5 is doing business in the State of California.

6 7. Defendant, DELTA WEB PRINTING, INC., is a California Corporation that, at all
7 relevant times, was authorized to do business within the State of California and is doing business in
8 the State of California.

9 8. Defendant, DELTA PRINT GROUP, LLC and/or Defendant, DELTA WEB
10 PRINTING, INC., are collectively referred to herein as “Delta Print.”

11 9. Delta Print specializes in the provision of commercial printing, mail, communication,
12 and fulfillment management services.

13 10. Defendant, BALANCE STAFFING FRANCHISE LLC, is a California Limited
14 Liability Company that, at all relevant times, was authorized to do business within the State of
15 California and is doing business in the State of California.

16 11. Defendant, BALANCE MANAGED SERVICES LLC, is a California Limited
17 Liability Company that, at all relevant times, was authorized to do business within the State of
18 California and is doing business in the State of California.

19 12. Defendant, BALANCE STAFFING FRANCHISE LLC, and/or Defendant,
20 BALANCE MANAGED SERVICES LLC, are collectively referred to herein as “Balance Staffing.”

21 13. Balance Staffing operates a staffing business. Balance Staffing does business under
22 including but not limited to, the following names: “Balance Diversity,” “Balance Staffing,”
23 “Balanced Diversity,” and/or “Balanced Diversity Staffing.”

24 14. DEFENDANTS own, operate, manage and/or staff its employees to work at the
25 plants, warehouse distribution centers, facilities and/or other locations in California, including but
26 not limited to, in Natomas, West Sacramento, and Sacramento, California. DEFENDANTS,
27 through its various locations, serve the including but not limited to, warehousing industry.¹

28 ¹ See <https://deltaprintgroup.com/about-us/> & balancestaffing.com/locations/. Last visited on May 24, 2025.

15. The true names and capacities of the DOE Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Doe Defendants when such identities become known.

16. PLAINTIFF is further informed and believes that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

JOINT LIABILITY

17. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control was to reach situations in which multiple entities control different aspects of the employment relationship. Supervision of the work, in the specific sense of exercising control over how services are properly performed, is properly viewed as one of the “working conditions” mentioned in the wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a temporary employment agency) hires and pays a worker, and the other entity supervises the work. *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in

1 California, applying a less stringent standard to what constitutes sufficient control by a business
2 over its vendor's employees' wages and working conditions to render that business liable as a joint
3 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); "[i]f the putative
4 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
5 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
6 employment," *Id.* at 875 [emphasis added].

7 18. During PLAINTIFF's employment by DEFENDANTS, PLAINTIFF and other
8 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
9 the Wage Orders, under the alternative definitions of "to employ" adopted by the California
10 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
11 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
12 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
13 and Aggrieved Employees to work for them.

14 19. PLAINTIFF is informed and believes and thereon alleges that at all relevant times
15 Balance Staffing operated as a single integrated enterprise with common ownership and centralized
16 human resources. As a result, Balance Staffing utilized the same unlawful policies and practices
17 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
18 policies and practices regardless of the location(s) where they worked. Among other things,
19 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
20 in Balance Staffing companies, (2) Balance Staffing utilize common management, who have control
21 over the day-to-day operations and employment matters, including the power to hire and fire, set
22 schedules, issue employee policies, and determine rates of compensation across its locations in
23 California; (3) Balance Staffing utilize the same policies and procedures for all California
24 employees, including issuing the same employee handbooks and other form agreements; (4) Balance
25 Staffing use at least some of the same Human Resources personnel and attorneys to oversee
26 employment matters; and, (6) Balance Staffing share employees.

27 20. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
28 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and

1 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,
2 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
3 Employees' wages, hours and working conditions, and/or suffered or permitted them to work so as
4 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

5 21. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
6 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
7 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
8 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
9 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
10 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
11 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
12 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
13 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
14 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
15 writing the details of their compensation, and the manner in which they were to take meal and rest
16 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
17 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
18 collectively would evaluate their wage rates.

19 22. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
20 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
21 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
22 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
23 PLAINTIFF seeks relief in this Complaint.

24 23. Moreover, based on information and belief, Balance Staffing hired PLAINTIFF and
25 entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment,
26 Balance Staffing maintained control over many aspects of PLAINTIFF's employment, including,
27 among other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job
28 assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate

1 PLAINTIFF's employment.

2 24. Based on information and belief, when PLAINTIFF was first hired, Balance Staffing
3 provided PLAINTIFF with orientation and training materials. Balance Staffing issued PLAINTIFF
4 written policies concerning meal periods, rest breaks, timekeeping, hours worked, and payment of
5 PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on information and
6 belief, among other things, these policies provided that PLAINTIFF's weekly time records be
7 submitted to Balance Staffing, and Balance Staffing was supposed to process PLAINTIFF's time
8 records and pay PLAINTIFF for all hours worked. Balance Staffing exercised ultimate control over
9 the payment of PLAINTIFF's wages, as Balance Staffing issued PLAINTIFF his paychecks.
10 Finally, Balance Staffing directed PLAINTIFF to comply with Delta Print' policies and directions.
11 PLAINTIFF is informed and believes that Balance Staffing exercised the same control over, applied
12 the same policies and practices, and engaged in the same acts and omissions with regard to the other
13 Aggrieved Employees.

14 25. Delta Print similarly suffered or permitted PLAINTIFF to work for them or engaged
15 PLAINTIFF to work for them. PLAINTIFF is informed and believes that Delta Print entered into a
16 written agreement with Balance Staffing, pursuant to which Delta Print paid Balance Staffing to
17 provide it with workers, including PLAINTIFF, to conduct Delta Print's business operations –
18 namely, to work in Delta Print's warehouse distribution centers, warehouses and/or other facilities
19 and/or other location(s). Delta Print suffered or permitted PLAINTIFF to work at Delta Print for the
20 entirety of PLAINTIFF's employment.

21 26. Delta Print further exercised control over PLAINTIFF's wages, hours and working
22 conditions. Delta Print also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
23 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
24 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
25 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
26 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
27 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
28 employment; (7) required PLAINTIFF to record hours worked using Delta Print's timekeeping

1 system; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks;
2 (9) subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
3 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief, Delta
4 Print issued further written policies and practices and guidelines governing PLAINTIFF's working
5 conditions with which PLAINTIFF was required to comply.

6 27. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
7 control over, applied the same policies and practices, and engaged in the same acts and omissions
8 with regard to all other Aggrieved Employees.

9 28. PLAINTIFF is informed and believes and thereon alleges that DEEFENDANTS
10 must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties
11 under PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
12 services from which DEFENDANTS benefited, and furthermore that the aforementioned entities
13 had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at
14 all relevant times herein, so as to be considered the joint employers of PLAINTIFF.

15 29. By reason of their status as joint employers of PLAINTIFF and Aggrieved
16 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
17 Code and applicable Wage Orders as to all Aggrieved Employees.

18 30. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
19 control over, applied the same policies and practices, and engaged in the same acts and omissions
20 with regard to the other Aggrieved Employees.

21 31. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
22 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
23 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
24 services from which they benefited, and furthermore that the aforementioned entities had the right
25 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
26 times herein, so as to be considered the joint employers of PLAINTIFF.

27 32. By reason of their status as joint employers of PLAINTIFF and Aggrieved
28 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor

1 Code and applicable Wage Orders as to all Aggrieved Employees.

2 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

3 33. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
4 employer shall share with the labor contractor” all civil liability for the payment of wages to the
5 workers supplied by the labor contractor.

6 34. Balance Staffing is a “labor contractor” in that it supplies Delta Print with workers
7 to perform labor within Delta Print’ usual course of business. Lab. Code § 2810.3(a)(3).

8 35. Delta Print is a “client employer” in that it is a business entity that “obtains or is
9 provided workers to perform labor within its usual course of business” from labor contractor
10 Balance Staffing. Lab. Code § 2810.3(a)(1)(A). Moreover, Delta Print has a workforce of more than
11 twenty-five workers and is supplied with at least five (5) workers from a labor contractor at any
12 given time. Lab. Code § 2810.3(a)(1)(B).

13 36. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
14 of wages to all workers supplied to Delta Print by Balance Staffing.

15 37. PLAINTIFF complied with all administrative requirements by providing notice by
16 certified mail of the claims alleged herein to Delta Print. Lab. Code § 2810.3(d).

17 38. Any reference herein to any alleged act or omission by any DEFENDANT shall be
18 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
19 and severally.

20 **PAGA ALLEGATIONS**

21 39. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
22 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
23 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
24 following:

- 25 i. All non-exempt workers who were directly employed by Defendant, BALANCE
26 STAFFING FRANCHISE LLC, and/or Defendant, BALANCE MANAGED
27 SERVICES LLC - regardless of where those non-exempt workers were assigned
28 or a staffed to work – in California at any time from one year plus 65 days from

1 the filing of the initial Complaint through the present (“PAGA Period”).

- 2 ii. All non-exempt workers who were assigned/staffed to work at any one or more
3 of Defendant, DELTA PRINT GROUP, LLC’s and/or Defendant, DELTA WEB
4 PRINTING, INC.’s locations in California, by Defendant, BALANCE
5 STAFFING FRANCHISE LLC, Defendant, BALANCE MANAGED
6 SERVICES LLC and/or any other staffing/temporary service agencies, at any
7 time during the PAGA Period.
- 8 iii. All non-exempt workers who were directly employed by Defendant, DELTA
9 PRINT GROUP, LLC and/or Defendant, DELTA WEB PRINTING, INC. at any
10 location in California at any time during the PAGA Period.

11 40. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
12 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
13 limitations period and personally suffered each of the Labor Code violations set forth herein.
14 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
15 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

16 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

17 41. PLAINTIFF, on March 14, 2025, through counsel, gave written notice by online
18 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
19 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
20 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
21 certified mail.

22 42. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
23 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
24 Employees.

25 43. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
26 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
27 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
28 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.

1 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

2 44. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
3 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
4 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

5 **FACTUAL ALLEGATIONS**

6 45. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
7 worked for DEFENDANTS in the State of California. At all times referenced herein,
8 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
9 permitted them to work.

10 46. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title
11 of warehouse worker or similar job title/position from approximately September 2024 through
12 approximately November 2024.

13 47. PLAINTIFF was assigned by Balance Staffing to work at including but not limited
14 to, Delta Print's facilities in Sacramento, California.

15 48. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
16 DEFENDANTS as hours worked. At times, DEFENDANTS paid PLAINTIFF an hourly rate of
17 \$17.50.

18 49. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
19 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
20 minimum and overtime wages.

21 50. Aggrieved Employees were not paid for all hours worked due to DEFENDANTS'
22 policy and/or practice of paying according to scheduled hours worked instead of actual time worked
23 and/or mandated off-the clock work policies and/or practices.

24 51. For example, based on information and belief, DEFENDANTS' wage statements
25 issued to PLAINTIFF do not accurately reflect the total hours worked as provided in time sheet data.
26 Based on information and belief, PLAINTIFF was not paid for all hours worked.

27 52. DEFENDANTS required, suffered and/or permitted Aggrieved Employees to
28 complete off-the-clock work tasks prior to clocking in for the start of their shifts, after clocking out

1 for the end of their shifts and/or during unpaid meal periods, resulting in DEFENDANTS' failure
2 to compensate Aggrieved Employees for all hours worked and the underpayment of wages owed to
3 those Aggrieved Employees.

4 53. For example, PLAINTIFF had to complete work tasks during unpaid meal periods
5 resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the
6 underpayment of wages owed to PLAINTIFF.

7 54. For example, while DEFENDANTS sometimes purported to allow thirty-minute
8 meal periods and would require PLAINTIFF to clock out for at least thirty-minutes per shift for
9 purported meal periods, DEFENDANTS actually limited PLAINTIFF to meal periods that were
10 only approximately twenty (20) to twenty-five (25) minutes long or less as PLAINTIFF was
11 required to travel to and from DEFENDANTS' rest area/break room and be back at his workstation
12 by the end of this thirty minutes. As such, PLAINTIFF was consistently not relieved of all duties
13 and DEFENDANTS' control during unpaid meal periods, resulting in DEFENDANTS' failure to
14 compensate PLAINTIFF for all hours worked and the underpayment of wages owed.

15 55. DEFENDANTS also required Aggrieved Employees to complete off-the-clock work
16 tasks before clocking in for the start of their shifts, after clocking out for the end of their shifts and/or
17 otherwise outside of scheduled shift times, resulting in off-the-clock work and the underpayment of
18 minimum and overtime wages owed to Aggrieved Employees.

19 56. For example, PLAINTIFF sometimes had to spend at least approximately twenty
20 (20) minutes completing work tasks off the clock before clocking in for the start of his shifts and/or
21 after clocking out for the end of shifts, resulting in DEFENDANTS' failure to compensate
22 PLAINTIFF for all hours worked and the underpayment of wages owed.

23 57. PLAINTIFF was also required to complete off-the-clock work outside of
24 PLAINTIFF's scheduled shift times due to work-related phone calls/messages PLAINTIFF received
25 on his personal cell phone and was required to respond to off the clock, including, weekly "check-
26 in calls" and/or other work-related calls and/or messages from DEFENDANTS, resulting in
27 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
28 wages owed.

1 58. Based on information and belief, DEFENDANTS failed to pay Aggrieved
2 Employees for all time they were required to spend completing orientation, policy questionnaires,
3 time spent completing the onboarding process and/or time spent reviewing various documents and
4 policies provided by DEFENDANTS.

5 59. Based on further information and belief, DEFENDANTS implemented a time-
6 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
7 Employees of compensable time because the time-rounding system implemented by
8 DEFENDANTS would almost always, if not always, result in understating actual compensable work
9 time.

10 60. For example, based on information and belief, DEFENDANTS shaved time off of
11 Aggrieved Employees' total recorded hours worked and/or suffered, permitted, or required
12 Aggrieved Employees to record only their scheduled hours worked rather than actual time worked
13 and/or otherwise forego recording all work time, resulting in the consistent underpayment of
14 minimum wages and overtime wages owed to Aggrieved Employees.

15 61. For example, DEFENDANTS' time records for PLAINTIFF show rounded time
16 entries, often with the same precise shift start time e.g., 4:00 p.m. or 2:30 p.m. and same precise
17 shift end time e.g., 2:30 a.m., 1:00 a.m. or 4:00 a.m., with an exactly thirty-minute meal period taken
18 precisely four (4) hours into the shift.

19 62. DEFENDANTS' failure to pay for all time worked by virtue of their time rounding,
20 failure to provide lawful meal periods, and/or other off-the-clock work practices and policies,
21 resulted in the underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees
22 as well as unpaid overtime wages for those Aggrieved Employees who worked more than eight (8)
23 hours in a day and/or more than forty (40) hours in a week.

24 63. Based on information and belief, DEFENDANTS had actual and/or constructive
25 knowledge that their time rounding policies/practices, failure to provide lawful meal periods and/or
26 other off-the-clock work policies and practices resulted in the underpayment of minimum wages
27 owed to PLAINTIFF and other Aggrieved Employees, in violation of California's minimum wage
28 laws.

1 64. DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours
2 worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

3 65. DEFENDANTS failed and continue to fail to pay Aggrieved Employees two times
4 their regular rate of pay for time worked beyond twelve (12) hours per workday and for time worked
5 beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of
6 California's overtime laws.

7 66. Based on information and belief, DEFENDANTS failed to incorporate all non-
8 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple
9 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the
10 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
11 to PLAINTIFF and other Aggrieved Employees.

12 67. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
13 worked shifts of more than five (5) hours, entitling them to at least one meal period. However,
14 PLAINTIFF and other Aggrieved Employees were sometimes unable to take timely, off duty, thirty-
15 minute, uninterrupted meal periods.

16 68. For example, as explained herein, DEFENDANTS failed to authorize and permit
17 timely, off-duty meal periods that were a full thirty-minutes in length.

18 69. For example, PLAINTIFF was frequently, if not always forced to take shortened/on-
19 duty meal periods. While DEFENDANTS at times purported to allow thirty-minute meal periods,
20 DEFENDANTS actually limited PLAINTIFF to meal periods that were a maximum of
21 approximately twenty (20) to twenty-five (25) minutes long or less. This was due to
22 DEFENDANTS' policy that PLAINTIFF be back at PLAINTIFF's workstation within thirty
23 minutes of leaving his workstation as this policy only relieved PLAINTIFF from PLAINTIFF's
24 workstation for no more than approximately twenty (20) to twenty-five (25) minutes since
25 PLAINTIFF was required to travel to and from DEFENDANTS' rest area/break room and be back
26 at the workstation by the end of this thirty minutes.

27 70. As such, PLAINTIFF was consistently suffered, permitted and/or required to take
28 shortened/on-duty meal periods, resulting in consistently denied meal periods as well as

1 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
2 wages owed.

3 71. DEFENDANTS also required, suffered and/or permitted PLAINTIFF and other
4 Aggrieved Employees to record that they had taken at least a thirty-minute off-duty meal period
5 and/or would unlawfully edit the clock in and out times for PLAINTIFFS and/or other Aggrieved
6 Employees' meal periods in order to display at least a thirty minute off-duty meal period during
7 many if not all shifts worked, notwithstanding the fact that DEFENDANTS had actual and/or
8 constructive knowledge that DEFENDANTS had required, suffered or permitted PLAINTIFF and
9 other Aggrieved Employees' to perform work-related tasks during their meal periods/were not
10 relieved of all duties and DEFENDANTS' control during unpaid meal periods.

11 72. For example, DEFENDANTS' time records for PLAINTIFF and other Aggrieved
12 Employees reflect a precisely thirty (30)-minute meal period taken before the end of the fifth hour
13 of work during many, if not all shifts worked, even though DEFENDANTS had actual and/or
14 constructive knowledge that PLAINTIFF and other Aggrieved Employees did not always receive
15 legally compliant meal periods.

16 73. Based on information and belief, DEFENDANTS required Aggrieved Employees to
17 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
18 into account when scheduling meal periods for Aggrieved Employees. Based on information and
19 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

20 74. Based on information and belief, Aggrieved Employees were consistently suffered
21 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
22 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
23 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
24 the need to meet DEFENDANTS' goals and expectations.

25 75. Based on information and belief, DEFENDANTS had actual and/or constructive
26 knowledge that their policies and practices resulted in the denial of timely, uninterrupted meal
27 periods which were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved
28 Employees, in violation of California's meal period laws.

1 76. Based on information and belief, per DEFENDANTS' uniform policy and practice,
2 Aggrieved Employees did not receive a legally compliant thirty (30) minute second meal break
3 when working shifts longer than ten (10) hours.

4 77. For example, PLAINTIFF did not receive any version of a second meal period when
5 working shifts longer than ten (10) hours. By way of example, DEFENDANTS' time records for
6 PLAINTIFF for including but not limited to the following workdays show PLAINTIFF worked
7 more than ten (10) and/or twelve (12) hours in a shift without clocking out/signing out for a second
8 meal period: 9.30.24, 10.1.24, 10.2.24, 10.14.24, 10.15.24, 10.16.24, and 10.18.24.

9 78. Based on information and belief, despite DEFENDANTS' failure to provide lawful
10 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
11 times of PLAINTIFF's and other Aggrieved Employees' meal periods, instructing Aggrieved
12 Employees to record rounded meal periods, and/or automatically deducting at least thirty minutes
13 per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to
14 DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF
15 and other Aggrieved Employees did not receive lawful meal periods.

16 79. PLAINTIFF is further informed and believes and thereon alleges that
17 DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-
18 deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF
19 and other Aggrieved Employees, in violation of California's meal period laws.

20 80. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees an
21 additional hour of wages at their respective regular rates of compensation for each workday a lawful
22 meal period was not provided.

23 81. **Rest Period Violations.** DEFENDANTS did not properly authorize and permit
24 PLAINTIFF and other Aggrieved Employees to take legally compliant rest periods at a rate of every
25 four (4) hours worked or major fraction thereof, that insofar as practicable, were taken in the middle
26 of the work period, as required by law.

27 82. PLAINTIFF and other Aggrieved Employees were not adequately informed,
28 authorized, instructed about, nor permitted an opportunity to take legally compliant rest periods per

1 California law.

2 83. For example, PLAINTIFF and other Aggrieved Employees were unable to take
3 compliant rest periods due to their need to complete assigned job duties and/or were unable to take
4 a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to
5 DEFENDANTS' premises/their workstations.

6 84. For example, PLAINTIFF was restricted to DEFENDANTS'
7 premises/PLAINTIFF's assigned workstation during purported rest periods, and as such, was not
8 relieved of all duties and DEFENDANTS' control during purported rest periods, in violation of
9 California rest period law.

10 85. Moreover, DEFENDANTS failed to provide a legally compliant third rest period on
11 shifts lasting longer than ten hours.

12 86. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
13 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
14 violation of California law.

15 87. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
16 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
17 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
18 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
19 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
20 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
21 applicable hourly rates in effect during the pay period and the corresponding number of hours
22 worked at each hourly rate by the employee.

23 88. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
24 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
25 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
26 and Aggrieved Employees (by virtue of the off-the-clock work policies and practices described
27 above) which results in a violation of Labor Code section 226(a).

28 89. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved

1 Employees that were not accurate and did not include all of the statutorily required information. As
2 such, DEFENDANTS violated Labor Code section 226.

3 90. **Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and
4 other Aggrieved Employees to incur business expenses as a direct consequence of the performance
5 of their job duties without providing reimbursement, in violation of Labor Code section 2802.

6 DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by requiring
7 them to pay for business expenses, including but not limited to, the use of Aggrieved Employees'
8 personal cell phones/mobile devices, internet and/or data usage for work-related purposes and/or by
9 requiring them to pay for the purchase and/or maintenance of uniforms, work clothing, work shoes,
10 protective/safety gear.

11 91. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal
12 cell phone/mobile device to carry out PLAINTIFF's assigned job duties, including for receiving and
13 responding to work-related calls and/or messages (e.g., DEFENDANTS' weekly check-in calls),
14 however, DEFENDANTS failed to provide PLAINTIFF with any and/or full reimbursement for
15 these business expenses.

16 92. For example, DEFENDANTS' wage statements for PLAINTIFF do not show any
17 reimbursement for business expenses.

18 93. DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees
19 for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF and Aggrieved
20 Employees were entitled to be reimbursed for all reasonable expenses associated with carrying out
21 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

22 94. **Failure to Timely Pay All Wages Upon Separation of Employment.**
23 DEFENDANTS failed to timely pay Aggrieved Employees all wages that were due and owing upon
24 termination or resignation. Based on information and belief, DEFENDANTS untimely provide final
25 wages to Aggrieved Employees without regard to the timing requirements of Labor Code sections
26 201-202.

27 95. Upon separation of employment, Aggrieved Employees' final paychecks were not
28 timely provided and/or did not include all wages owed as they were devoid of, including but not

1 limited to, all owed minimum wages, overtime wages, premium wages, and/or paid time off wages
2 at the properly accrued rates.

3 96. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
4 upon termination of PLAINTIFF's employment, instead requiring PLAINTIFF to wait at least
5 approximately one (1) week until the next regularly scheduled payday to be issued a final paycheck,
6 and PLAINTIFF's late final paycheck was devoid of all wages owed including without limitation,
7 all owed minimum wages, overtime wages, and premium wages.

8 97. For example, DEFENDANTS terminated PLAINTIFF's employment on or around
9 October 29, 2024, yet DEFENDANTS' final paycheck for PLAINTIFF is dated November 8, 2024.
10 Based on information and belief, DEFENDANTS have a policy and practice of failing to issue final
11 pay checks upon separation of employment and instead waiting until the next regularly scheduled
12 pay period to issue final pay checks, in violation of the timing requirements delineated under Labor
13 Code section 201 and/or 202.

14 98. **Violation of Labor Code Sections 2100-2112.** Pursuant to Labor Code Sections
15 2100–2112, employers with one hundred (100) or more employees at a single warehouse
16 distribution center, or one thousand (1,000) or more employees at one or more warehouse
17 distribution centers in California are required to provide nonexempt employees, upon hire, with a
18 written description of each quota they are subject to (e.g., quantified number of tasks to be performed
19 or materials to be handled) within a defined period of time and any potential adverse employment
20 action that may result from failure to meet the quota. Labor Code Section 2102 (see below) prohibits
21 adverse employment actions against employees who fail to meet their quota if the quota was not
22 properly disclosed to the employee and prohibits quotas that prevent an employee from taking his
23 or her meal or rest breaks, use of restrooms, or that interfere with compliance with California's
24 occupational health and safety laws.

25 99. Labor Code Section 2101 provides:

26 100. Each employer shall provide to each employee, upon hire, or within 30 days of the
27 effective date of this part, a written description of each quota to which the employee is subject,
28 including the quantified number of tasks to be performed or materials to be produced or handled,

1 within the defined time period, and any potential adverse employment action that could result from
2 failure to meet the quota.

3 101. Labor Code Section 2102 provides:

4 102. An employee shall not be required to meet a quota that prevents compliance with
5 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
6 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
7 An employer shall not take adverse employment action against an employee for failure to meet a
8 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
9 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
10 disclosed to the employee pursuant to Section 2101.

11 103. Labor Code Section 2104 provides in pertinent part:

12 104. (a)(1) If a current or former employee believes that meeting a quota caused a
13 violation of their right to a meal or rest period or required them to violate any occupational health
14 and safety laws in the Labor Code or division standards, they have the right to request, and the
15 employer shall provide, a written description of each quota to which the employee is subject and a
16 copy of the most recent 90 days of the employee's own personal work speed data.

17 105. (2) If a former employee requests a written description of the quotas to which they
18 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
19 employer shall provide 90 days of the former employee's quotas and personal work speed data for
20 the 90 days prior to the date of the employee's separation from the employer.

21 106. (b) An employer that receives a written or oral request for information pursuant to
22 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
23 days from the date of the request.

24 107. During the liability period, DEFENDANTS employed 100 or more Aggrieved
25 Employees at a single warehouse distribution center in California rendering DEFENDANTS subject
26 to the provisions of Labor Code Sections 2100-2112, during the relevant period.

27 108. Based on information and belief, DEFENDANTS had/have a policy and practice of
28 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they

1 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
2 defined period of time and any potential adverse employment action that may result from failure to
3 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
4 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
5 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
6 compliance of California's occupational health and safety laws.

7 109. Based on further information and belief, DEFENDANTS have/had a policy and
8 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
9 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
10 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
11 Labor Code section 2102.

12 110. Based on information and belief, DEFENDANTS failed and continue to fail to timely
13 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
14 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
15 them to violate any occupational health and safety laws, a written description of each quota to which
16 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
17 personal work speed data.

18 111. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
19 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

20 112. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
21 engaged in these same herein described unlawful practices, which led to violations of the California
22 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
23 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

24 **FIRST CAUSE OF ACTION**
25 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
26 **2698, *ET SEQ.***
27 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
28 **Defendants)**

113. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

///

1 **Meal Period Violations**

2 114. California law requires employers to provide employees a duty-free, uninterrupted
3 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
4 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
5 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
6 *Court* (2012) 53 Cal.4th 1004.

7 115. Employers must also provide employees with a second duty-free, uninterrupted thirty
8 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
9 be provided before the end of the 10th hour of work. *Ibid.*

10 116. Employers covered by any and all applicable IWC Wage Orders have an obligation
11 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
12 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
13 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
14 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
15 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
16 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
17 provided”).

18 117. Employers must pay employees an additional hour of wages at the employees’
19 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
20 meal period, first meal period provided after five (5) hours, second meal period provided after 10
21 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
22 provide an employee a meal period in accordance with the applicable provision of this Order, the
23 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
24 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

25 118. As explained above, PLAINTIFF and other Aggrieved Employees were unable to
26 take timely, off duty, thirty-minute, uninterrupted meal periods, at times being forced to take late
27 meal periods, shortened meal periods, and/or work through part or all of their meal periods due to
28 understaffing, the nature and constraints of their job duties, and/or commentary from supervisors

1 pressuring them to take non-compliant meal periods or skip meal periods completely.

2 119. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
3 actual and/or constructive knowledge that its unlawful meal period policies and practices resulted
4 in the denial of compliant meal periods in violation of California's meal period laws.

5 120. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
6 periods in violation of California law and/or failed to pay the proper meal period premium for failure
7 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
8 differential pay and/or other non-discretionary compensation into the regular rate or compensation
9 for purposes of calculating the owed meal period premium.

10 121. These unlawful meal period policies and practices result in violations of Labor Code
11 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
12 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
13 Wage Orders, § 20.

14 **Rest Period Violations**

15 122. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
16 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
17 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
18 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
19 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
20 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
21 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
22 1029). The rest period requirement obligates employers to permit and authorize employees to take
23 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
24 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
25 257. If the employer fails to provide any required rest period, the employer must pay the employee
26 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
27 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
28 applicable IWC Wage Order, §12(B).

1 123. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
2 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
3 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
4 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
5 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
6 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
7 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
8 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
9 “onus is on the employer to clearly communicate the authorization and permission [to take rest
10 periods] to its employees.”).

11 124. PLAINTIFF and the Aggrieved Employees did not always receive legally compliant,
12 timely 10-minute rest periods for every four (4) hours worked or major fraction thereof.

13 125. Based on information and belief, at times, DEFENDANTS failed to relieve
14 PLAINTIFF and other Aggrieved Employees of all duties and employer control during rest periods.

15 126. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
16 first, second, or third rest periods as required by California law.

17 127. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
18 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
19 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
20 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
21 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
22 the regular rate of compensation for purposes of determining the owed rest period premium.

23 128. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
24 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
25 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

26 **Minimum and Overtime Wage Violations**

27 129. California law provides that employees in California must be paid for all hours
28 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less

1 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
2 The minimum wage standard applies to each hour employees worked for which they were not paid.
3 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
4 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
5 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

6 130. California law also provides that employees in California must be paid overtime,
7 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
8 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
9 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
10 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
11 consecutive day of work in a work week. *Ibid.*

12 131. As explained above, DEFENDANTS violated California's minimum and overtime
13 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
14 by virtue of, among other things, DEFENDANTS' off-the-clock work policies and practices
15 (described above), which resulted in unpaid minimum and overtime wages.

16 132. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
17 Aggrieved Employees for all hours worked.

18 133. Based on information and belief, DEFENDANTS had actual or constructive
19 knowledge that its failure to relieve employees of all duties and employer control during unpaid
20 meal periods and other off-the-clock work resulted in the underpayment of minimum and overtime
21 wages owed to PLAINTIFF and other Aggrieved Employees.

22 134. Based on information and belief, DEFENDANTS failed and continue to fail to pay
23 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
24 in a week.

25 135. Based on information and belief, DEFENDANTS further violated California's
26 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
27 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
28 compensation into the regular rate of pay used to calculate the overtime rate of pay, resulting in the

1 underpayment of overtime wages owed to Aggrieved Employees.

2 136. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
3 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
4 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
5 Wage Orders, section 20.

6 **Business Expense Violations**

7 137. California law requires employers to indemnify their employees for all necessary
8 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
9 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
10 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
11 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
12 incurred by the employee enforcing the rights granted by this section.”

13 138. Among other things, under California law, when employees must use their personal
14 cellphones for work-related purposes, the employer must reimburse them for a reasonable
15 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
16 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
17 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
18 *Id.* 1144-1145.

19 139. Further, “any contract or agreement, express or implied, made by any employee to
20 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
21 any employee or his personal representative of any right or remedy to which he is entitled to under
22 the laws of this State.” *See* Cal. Lab. Code section 2804.

23 140. As described above, PLAINTIFF and the Aggrieved Employees were improperly
24 required to pay for business expenses that are legally the responsibility of the employer.

25 141. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
26 full reimbursement for all reasonable expenses associated with carrying out their duties required
27 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
28 expenses in violation of Labor Code section 2802.

1 142. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
2 Employees have suffered injury in that they were not completely reimbursed as mandated by
3 California law.

4 143. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
5 full reimbursement for all reasonable expenses associated with carrying out their duties required
6 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
7 expenses in violation of Labor Code section 2802 and the applicable Wage Order.

8 144. This constitutes a PAGA violation based on violations of California Labor Code §
9 2802 and the applicable Wage Order.

10 **Wage Statement Violations**

11 145. California law requires every employer semi-monthly or at the time of each payment
12 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
13 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
14 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
15 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
16 is paid; (7) the name of the employee and only the last four digits of his or her social security number
17 or an employee identification number other than a social security number; (8) the name and address
18 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
19 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

20 146. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
21 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
22 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
23 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
24 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
25 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
26 effect during the pay period and the corresponding number of hours worked at each hourly rate by
27 the employee, in violation of Labor Code section 226(a)(9).

28 147. Moreover, due to violations detailed above, including but not limited to,
27

1 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
2 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
3 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
4 wage statements that listed the gross and net wages earned and the correct applicable rates of pay
5 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
6 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
7 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
8 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

9 148. As explained above, wage statements issued by DEFENDANTS failed to list the
10 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
11 policies and practices described above), which results in a violation of Labor Code section 226(a).

12 149. Failure to list all hours worked on a wage statement, gives rise to an inference of
13 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
14 1308, 1337).

15 150. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list all applicable hourly rates in effect during the pay period and the corresponding number of
17 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
18 Code section 226(a)(9).

19 151. DEFENDANTS' failure to accurately list all hours worked on all wage statements
20 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
21 Employees over whether they received all wages owed to them.

22 152. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
23 they could not easily determine whether they received all wages owed to them and whether they
24 were paid for all hours worked.

25 153. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
26 Aggrieved Employees with accurate, itemized wage statements.

27 154. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
28 Employees have suffered injury. The absence of accurate information on their wage statements has

1 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
2 mathematical computations to determine the amount of wages owed, and will cause difficulty and
3 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
4 submission of inaccurate information about wages and amounts deducted from wages to state and
5 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
6 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
7 and pay records than if DEFENDANT had complied with its legal obligations.

8 155. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
9 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
10 during which the statute provisions were violated. ²

11 **Untimely Payment of Final Wages**

12 156. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
13 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
14 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
15 employee not having a written contract for a definite period quits his or her employment, his or her
16 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
17 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
18 to his or her wages at the time of quitting.”

19 157. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
20 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
21 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
22 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
23 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
24 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

25 158. Based on information and belief, DEFENDANTS failed and continue to fail to timely
26 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
27 violation of Labor Code section 201-202. Final paychecks are not timely provided and/or did not

28 ² Labor Code § 226.3 (establishing that the civil penalty is ~~29~~ per employee per violation”).

1 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
2 overtime wages, and premium wages.

3 159. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
4 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
5 256.

6 **Violation of Labor Code Sections 2100-2112**

7 160. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
8 more employees at a single warehouse distribution center, or one thousand (1,000) or more
9 employees at one or more warehouse distribution centers in California are required to provide
10 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
11 quantified number of tasks to be performed or materials to be handled) within a defined period of
12 time and any potential adverse employment action that may result from failure to meet the quota.
13 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
14 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
15 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
16 with compliance with California’s occupational health and safety laws.

17 161. Labor Code Section 2101 provides:

18 162. Each employer shall provide to each employee, upon hire, or within 30 days of the
19 effective date of this part, a written description of each quota to which the employee is subject,
20 including the quantified number of tasks to be performed or materials to be produced or handled,
21 within the defined time period, and any potential adverse employment action that could result from
22 failure to meet the quota.

23 163. Labor Code Section 2102 provides:

24 164. An employee shall not be required to meet a quota that prevents compliance with
25 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
26 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
27 An employer shall not take adverse employment action against an employee for failure to meet a
28 quota that does not allow a worker to comply with meal and rest periods, or occupational health and

1 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
2 disclosed to the employee pursuant to Section 2101.

3 165. Labor Code Section 2104 provides in pertinent part:

4 166. (a)(1) If a current or former employee believes that meeting a quota caused a
5 violation of their right to a meal or rest period or required them to violate any occupational health
6 and safety laws in the Labor Code or division standards, they have the right to request, and the
7 employer shall provide, a written description of each quota to which the employee is subject and a
8 copy of the most recent 90 days of the employee's own personal work speed data.

9 167. (2) If a former employee requests a written description of the quotas to which they
10 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
11 employer shall provide 90 days of the former employee's quotas and personal work speed data for
12 the 90 days prior to the date of the employee's separation from the employer.

13 168. (b) An employer that receives a written or oral request for information pursuant to
14 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
15 days from the date of the request.

16 169. During the liability period, DEFENDANTS employed 100 or more Aggrieved
17 Employees at a single warehouse distribution center in California rendering DEFENDANTS subject
18 to the provisions of Labor Code Sections 2100-2112, during the relevant period.

19 170. Based on information and belief, DEFENDANTS had/have a policy and practice of
20 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
21 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
22 defined period of time and any potential adverse employment action that may result from failure to
23 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
24 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
25 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
26 compliance of California's occupational health and safety laws.

27 171. Based on further information and belief, DEFENDANTS have/had a policy and
28 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a

1 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
2 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
3 Labor Code section 2102.

4 172. Based on information and belief, DEFENDANTS failed and continue to fail to timely
5 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
6 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
7 them to violate any occupational health and safety laws, a written description of each quota to which
8 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
9 personal work speed data.

10 173. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
11 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

12 174. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
13 engaged in these same herein described unlawful practices, which led to violations of the California
14 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
15 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

16 175. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
17 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

18 176. Under the provisions of PAGA and the above mentioned Labor Code sections,
19 including but not limited to Labor Code sections 201-203, 210, 226, 226.7, 256, 510, 512, 558,
20 558.1, 1194, 1197, 1197.1, 2100-2112, 2699, 2699.3, 2802, and all applicable Wage Orders as well
21 as all interpretations of these laws by California Courts and administrative bodies, as well as any
22 other law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 23 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
24 relevant California Labor Code provisions listed herein only if permitted by the
25 PAGA statute, pursuant to Labor Code section 2699(a); and
26 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
27 violations without a civil penalty recoverable under the PAGA, all in the default
28 amounts provided by Labor Code section 2699(f).

1 177. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
2 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
5 PLAINTIFF, the State of California, and all Aggrieved Employees:

- 6 1. For civil penalties under Labor Code Section 2699;
7 2. For an order temporarily, preliminarily and permanently enjoining and
8 restraining DEFENDANTS from engaging in similar unlawful conduct as set
9 forth herein;
10 3. For reasonable attorney's fees and costs of suit; and
11 4. For such other and further relief that the Court deems just and proper.

12
13 Dated: May 27, 2025

CROSNER LEGAL, PC

14
15 By: 

16 Jamie K. Serb, Esq.
17 Brandon Brouillette, Esq.
18 Zachary M. Crosner, Esq.
19 Attorneys for Plaintiff
20 CRUZ SOTO
21
22
23
24
25
26
27
28